

A Maryland Judiciary Production
My Laws, My Courts, My Maryland
Can't Afford Court Fees?

In this video, we'll talk about fee waivers in the trial courts. First, we'll explain prepayment waivers and, then, we'll identify the two types of prepayment waivers. We will also talk about final waivers and the paperwork you'll need to request a final waiver. This video does not talk about waivers of appeal costs. If you have an appeal case, please view the video titled, "Can't Afford Appellate Costs?"

[STEPS: Prepayment waivers.]

Let's define a prepayment fee.

Before the court can open your case, you must pre-pay a court filing fee. That means you pay the fee "up front" before your case can begin. Usually, that fee is collected by a clerk at the same time you file your complaint or legal document.

What if you can't afford to pay that fee?

If you cannot afford to pay the fee, you may ask the court to waive the fee at the beginning of your case. Remember, this waiver only removes the requirement that you *prepay* the fee, or pay the fee up front. You will have to pay the fee at the end of your case unless the court orders otherwise. We'll talk about how to waive those final fees later on.

How do you know if you qualify for a prepayment fee waiver?

There are two types of prepayment waivers. The first type is an automatic fee waiver, and this type applies if you are a client of an approved legal service provider. The second type is a

discretionary fee waiver. This type is available if you are low income and you have no lawyer, or if your lawyer is not an approved legal service provider.

If you are being represented by a lawyer with one of Maryland's civil legal aid groups, you may qualify for an automatic fee waiver. That means the clerk of the court can accept your papers for filing without the fee, and without a judge reviewing your request. You will also qualify for an automatic fee waiver if your lawyer was provided by Maryland Legal Aid, or the Office of the Public Defender. Your lawyer will include a statement along with your court papers noting that your case is eligible for the waiver.

What if you don't have a lawyer with an authorized program?

Even if you don't qualify for an automatic waiver, you may still qualify for a discretionary waiver. Discretionary waivers are granted by a judge, not the clerk. Complete the Request for Waiver of Prepaid Costs Form (CC-DC-089) and give it to the clerk with the papers you need to file. If you have a lawyer, he or she must submit a certification that there is good grounds to support your claim. No fee is required at this time.

The judge will review your request. He or she will consider whether your family income qualifies under the guidelines for the Maryland Legal Services Corporation for the current year. The judge may also consider any other factors that may impact your ability to pay the prepaid costs. Once the judge decides whether or not to grant your request for a waiver, a copy of the order will be mailed to you.

If your request is granted, the clerk's office will accept your filing. Your case will begin. If your request is denied, follow the instructions on the order to pay the fee. You will have 10

days to pay the fee so that your case can begin. If you do not pay the fee, the court will consider your case to be withdrawn and will take no further action.

[STEPS: Final Waivers]

First, let's talk about the difference between final waivers and prepayment waivers.

Final waivers address fees you may have to pay after your court case is over. Remember, if you received a prepayment waiver, these costs still remain due. A judge can require each party to pay a part of the costs, or require both of you pay all of the costs. At the end of the case, the judge will decide whether you or the other person should pay those court costs and fees.

What if you still can't afford to pay the fees?

If the judge orders you to pay some or all of the costs, and you cannot afford it, you may ask the court for a final waiver. Unlike the prepayment waiver, only a judge can waive payment of final fees.

How do I request a final waiver?

Complete and file a Request for Final Waiver of Open Costs, Form CC-DC-090. File this form with the Court and provide a copy to the other party or that person's lawyer.

If you received a prepayment waiver, check the box indicating that the court waived the prepaid costs and there has been no material change to your finances. If you did not receive a prepayment waiver, complete the Affidavit on the form.

How do I file for a final waiver?

You can file the Request for Final Waiver of Open Costs and the supporting documents with the clerk. Or, you may be able to submit the request in open court on the day of your hearing. The judge will rule on your request and issue an order. If the ruling is not made in open court, a copy of the order will be mailed to you.

Remember, there are two types fee waivers in the trial courts. The first type is a prepayment waiver, which must be decided before your case can begin. A clerk will automatically waive “up front” fees if you have a lawyer from an authorized legal service program. A judge can grant a discretionary prepayment waiver if your income falls below a certain level. The second type is a final waiver, which is decided by a judge at the conclusion of your court case.

This has been a production of the Access to Justice Department of the Administrative Office of the Courts. For more information, visit www.mdcourts.gov.